

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

THEODORE M. HURWITZ,
Petitioner-Appellant,

v.

No. 01-6226

J. E. GUNJA, Warden,
Respondent-Appellee.

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
J. Frederick Motz, Chief District Judge.
(CA-00-304-JFM)

Submitted: May 31, 2001

Decided: June 13, 2001

Before WILKINS, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Theodore M. Hurwitz, Appellant Pro Se. Lynne Ann Battaglia,
Andrea Margaretta Leahy-Fucke, Assistant United States Attorney,
Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM

Theodore Hurwitz appeals the district court's order denying his habeas petition under 28 U.S.C. § 2241 (1994) on the basis that his sole claim had been raised and denied on the merits in an earlier motion under 28 U.S.C.A. § 2255 (West Supp. 2000), a denial which Hurwitz did not appeal. However, under 28 U.S.C.A. § 2244(a) (West Supp. 2000), no district court is required to entertain a habeas petition inquiring into the detention of a person pursuant to a judgment of a court of the United States if it appears that "the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus." In light of the Supreme Court's recognition that a § 2255 motion is the substantial equivalent of a habeas corpus petition for a federal inmate, Sanders v. United States, 373 U.S. 1, 15 (1963), the district court's denial of Hurwitz's petition is without error. Furthermore, to the extent Hurwitz alleges errors in the district court's original determination on the merits, we are mindful that habeas review is an extraordinary remedy and "will not be allowed to do service for an appeal." Harris, 180 F.3d 313, 317 (4th Cir. 1999) (quoting Reed v. Farley, 512 U.S. 339, 354 (1994); Sunal v. Large, 332 U.S. 174, 178 (1947)). Accordingly, we affirm the district court's order, and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid in the decisional process.

AFFIRMED